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making the offer, not by counsel; and shall be submitted to the interested division.

(c) *Consideration of offers of settlement.*

(1) Offers of settlement shall be considered by the interested division when time, the nature of the proceedings, and the public interest permit.

(2) Where a hearing officer is assigned to a proceeding, the interested division and the party submitting the offer may request that the hearing officer express his or her views regarding the appropriateness of the offer of settlement. A request for the hearing officer to express his or her views on an offer of settlement or otherwise to participate in a settlement conference constitutes a waiver by the persons making the request of any right to claim bias or prejudgment by the hearing officer based on the views expressed.

(3) The interested division shall present the offer of settlement to the Commission with its recommendation, except that, if the division's recommendation is unfavorable, the offer shall not be presented to the Commission unless the person making the offer so requests.

(4) By submitting an offer of settlement, the person making the offer waives, subject to acceptance of the offer:

(i) All hearings pursuant to the statutory provisions under which the proceeding is to be or has been instituted;

(ii) The filing of proposed findings of fact and conclusions of law;

(iii) Proceedings before, and an initial decision by, a hearing officer;

(iv) All post-hearing procedures; and

(v) Judicial review by any court.

(5) By submitting an offer of settlement the person further waives:

(i) Such provisions of the Rules of Practice or other requirements of law as may be construed to prevent any member of the Commission's staff from participating in the preparation of, or advising the Commission as to, any order, opinion, finding of fact, or conclusion of law to be entered pursuant to the offer; and

(ii) Any right to claim bias or prejudgment by the Commission based on the consideration of or discussions con-

cerning settlement of all or any part of the proceeding.

(6) If the Commission rejects the offer of settlement, the person making the offer shall be notified of the Commission's action and the offer of settlement shall be deemed withdrawn. The rejected offer shall not constitute a part of the record in any proceeding against the person making the offer, provided, however, that rejection of an offer of settlement does not affect the continued validity of waivers pursuant to paragraph (c)(5) of this section with respect to any discussions concerning the rejected offer of settlement.

(7) Final acceptance of any offer of settlement will occur only upon the issuance of findings and an order by the Commission.

§ 201.250 Motion for summary disposition.

(a) After a respondent's answer has been filed and, in an enforcement or a disciplinary proceeding, documents have been made available to that respondent for inspection and copying pursuant to § 201.230, the respondent, or the interested division may make a motion for summary disposition of any or all allegations of the order instituting proceedings with respect to that respondent. If the interested division has not completed presentation of its case in chief, a motion for summary disposition shall be made only with leave of the hearing officer. The facts of the pleadings of the party against whom the motion is made shall be taken as true, except as modified by stipulations or admissions made by that party, by uncontested affidavits, or by facts officially noted pursuant to § 201.323.

(b) The hearing officer shall promptly grant or deny the motion for summary disposition or shall defer decision on the motion. The hearing officer may grant the motion for summary disposition if there is no genuine issue with regard to any material fact and the party making the motion is entitled to a summary disposition as a matter of law. If it appears that a party, for good cause shown, cannot present by affidavit prior to hearing facts essential to justify opposition to the motion, the hearing officer shall deny or defer the

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motion. A hearing officer's decision to deny leave to file a motion for summary disposition is not subject to interlocutory appeal.

(c) The motion for summary disposition, supporting memorandum of points and authorities, and any declarations, affidavits or attachments shall not exceed 35 pages in length.

RULES REGARDING HEARINGS

§ 201.300 Hearings.

Hearings for the purpose of taking evidence shall be held only upon order of the Commission. All hearings shall be conducted in a fair, impartial, expeditious and orderly manner.

§ 201.301 Hearings to be public.

All hearings, except hearings on applications for confidential treatment filed pursuant to § 201.190, hearings held to consider a motion for a protective order pursuant to § 201.322, and hearings on *ex parte* application for a temporary cease-and-desist order, shall be public unless otherwise ordered by the Commission on its own motion or the motion of a party. No hearing shall be nonpublic where all respondents request that the hearing be made public.

§ 201.302 Record of hearings.

(a) *Recordation.* Unless ordered otherwise by the hearing officer or the Commission, all hearings shall be recorded and a written transcript thereof shall be prepared.

(b) *Availability of a transcript.* Transcripts of public hearings shall be available for purchase at prescribed rates. Transcripts of nonpublic proceedings, and transcripts subject to a protective order pursuant to § 201.322, shall be available for purchase only by parties; provided, however, that any person compelled to submit data or evidence in a hearing may purchase a copy of his or her own testimony.

(c) *Transcript correction.* Prior to the filing of post-hearing briefs or proposed findings and conclusions, or within such earlier time as directed by the Commission or the hearing officer, a party or witness may make a motion to correct the transcript. Proposed corrections of the transcript may be submitted to the hearing officer by stipu-

lation pursuant to § 201.324, or by motion. Upon notice to all parties to the proceeding, the hearing officer may, by order, specify corrections to the transcript.

§ 201.310 Failure to appear at hearings: Default.

Any person named in an order instituting proceedings as a person against whom findings may be made or sanctions imposed who fails to appear at a hearing of which he or she has been duly notified may be deemed to be in default pursuant to § 201.155(a). A party may make a motion to set aside a default pursuant to § 201.155(b).

§ 201.320 Evidence: Admissibility.

The Commission or the hearing officer may receive relevant evidence and shall exclude all evidence that is irrelevant, immaterial or unduly repetitious.

§ 201.321 Evidence: Objections and offers of proof.

(a) *Objections.* Objections to the admission or exclusion of evidence must be made on the record and shall be in short form, stating the grounds relied upon. Exceptions to any ruling thereon by the hearing officer need not be noted at the time of the ruling. Such exceptions will be deemed waived on appeal to the Commission, however, unless raised:

(1) Pursuant to interlocutory review in accordance with § 201.400;

(2) In a proposed finding or conclusion filed pursuant to § 201.340; or

(3) In a petition for Commission review of an initial decision filed in accordance with § 201.410.

(b) *Offers of proof.* Whenever evidence is excluded from the record, the party offering such evidence may make an offer of proof, which shall be included in the record. Excluded material shall be retained pursuant to § 201.350(b).

§ 201.322 Evidence: Confidential information, protective orders.

(a) *Procedure.* In any proceeding as defined in § 201.101(a), a party, any person who is the owner, subject or creator of a document subject to subpoena or which may be introduced as evidence, or any witness who testifies at a hearing may file a motion requesting a